

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 132, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 courts and court officers.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 33-33-45-21 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) The court is
- 8 divided into civil (including probate), criminal, county, and juvenile
- 9 divisions. The work of the court shall be divided among the divisions
- 10 by the rules of the court.
- 11 (b) Seven (7) judges comprise the civil division. Four (4) judges
- 12 comprise the criminal division. Four (4) judges comprise the county
- 13 division. One (1) judge comprises the juvenile division. However, the
- 14 court by rule may alter the number of judges assigned to a division
- 15 ~~other than the county division~~ of the court if the court determines that
- 16 the change is necessary for the efficient operation of the court.
- 17 (c) The court by rule may reassign a judge of the court from one
- 18 (1) division to another if the court determines that the change is
- 19 necessary for the efficient operation of the court. The court by rule
- 20 shall establish a rotation schedule providing for the rotation of judges
- 21 through the various divisions. The rotation schedule may be used if a
- 22 judge determines that an emergency exists. However, a senior judge of
- 23 any division ~~or a judge of the county division~~ may not be reassigned or
- 24 rotated to another division under this subsection.
- 25 (d) The chief judge of the court may assign a judge in one (1)
- 26 division of the court to hear a case originating in another division of the

1 court, and may reassign cases from one (1) judge to another, if the chief
2 judge determines that the change is necessary for the efficient operation
3 of the court.

4 SECTION 2. IC 33-33-45-25 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. ~~(a) Unless the judge~~
6 ~~is a judge of the county division,~~ At the general election immediately
7 preceding the expiration of a judge's extended term, the question of that
8 judge's retention in office or rejection shall be submitted to the
9 electorate of Lake County under section 42 of this chapter. Thereafter,
10 unless rejected by the electorate, each judge shall serve successive
11 terms as provided in section 41(b) of this chapter.

12 ~~(b) A judge of the county division may serve a successive term if~~
13 ~~elected to serve a successive term under section 43 of this chapter.~~

14 SECTION 3. IC 33-33-45-34 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 34. (a) When a vacancy
16 occurs in the superior court of Lake County, ~~not including its county~~
17 ~~division,~~ the clerk of the court shall promptly notify the chairman and
18 each member of the commission of the vacancy. The chairman shall
19 call a meeting of the commission within ten (10) days following the
20 notice. The commission shall submit its nominations of three (3)
21 candidates for each vacancy and certify them to the governor as
22 promptly as possible, and not later than sixty (60) days after the
23 vacancy occurs. When it is known that a vacancy will occur at a
24 definite future date within the term of the governor then serving, but
25 the vacancy has not yet occurred, the clerk shall notify the chairman
26 and each member of the commission immediately of the forthcoming
27 vacancy, and the commission may within fifty (50) days of the notice
28 of the vacancy make its nominations and submit to the governor the
29 names of three (3) persons nominated for the forthcoming vacancy.

30 (b) Meetings of the commission shall be called by its chairman or,
31 if the chairman fails to call a necessary meeting, upon the call of any
32 five (5) members of the commission. The chairman, whenever the
33 chairman considers a meeting necessary, or upon the request by any
34 five (5) members of the commission for a meeting, shall give each
35 member of the commission at least five (5) days written notice by mail
36 of the date, time, and place of every meeting unless the commission at
37 its previous meeting designated the date, time, and place of its next
38 meeting.

39 (c) Meetings of the commission are to be held at the Lake County
40 government center in Crown Point or another place, as the circuit court
41 clerk of Lake County may arrange, at the direction of the chairman of
42 the commission.

43 (d) The commission may act only at a public meeting. IC 5-14-1.5
44 applies to meetings of the commission. The commission may not meet
45 in executive session under IC 5-14-1.5-6.1 for the consideration of a
46 candidate for judicial appointment.

47 (e) The commission may act only by the concurrence of a majority
48 of its members attending a meeting. Five (5) members constitute a
49 quorum at a meeting.

50 (f) The commission may adopt reasonable and proper rules and

1 regulations for the conduct of its proceedings and the discharge of its
 2 duties. These rules must provide for the receipt of public testimony
 3 concerning the qualifications of candidates for nomination to the
 4 governor.

5 SECTION 4. IC 33-33-45-40 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. An appointment by
 7 the governor or chief justice, as required by section 38 ~~or 39~~ of this
 8 chapter, to the superior court of Lake County takes effect immediately
 9 if a vacancy exists at the date of the appointment. The appointment
 10 takes effect on the date the vacancy is created if a vacancy does not
 11 exist at the date of appointment.

12 SECTION 5. IC 33-33-45-41 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 41. (a) Each judge
 14 appointed under section 38 of this chapter serves an initial term, which
 15 begins on the effective date of the appointment of the judge and
 16 continues through December 31 in the year of the general election that
 17 follows the expiration of two (2) years after the effective date of the
 18 judge's appointment.

19 (b) Unless rejected by the electorate of Lake County under section
 20 42 of this chapter, a judge of the ~~civil division; criminal division; and~~
 21 ~~juvenile division~~ **superior court** shall serve successive six (6) year
 22 terms.

23 ~~(c) The term of office of a judge of the county division of the~~
 24 ~~superior court is six (6) years. A judge appointed under section 39 of~~
 25 ~~this chapter to fill a vacancy in the county division of the Lake superior~~
 26 ~~court serves for the unexpired term of the vacating judge and until the~~
 27 ~~appointed judge's successor is elected and qualified.~~

28 ~~(d)~~ **(c)** Each six (6) year term begins on the first day of January
 29 following the expiration of the preceding initial term or the preceding
 30 six (6) year term, as the case may be, and continues for six (6) years.

31 SECTION 6. IC 33-33-45-42, AS AMENDED BY P.L.58-2005,
 32 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2009]: Sec. 42. (a) The question of the retention in office or
 34 rejection of each judge of ~~the following divisions of~~ the superior court
 35 of Lake County shall be submitted to the electorate of Lake County at
 36 the general election immediately preceding expiration of the term of
 37 the judge.

38 ~~(1) Civil division:~~

39 ~~(2) Criminal division:~~

40 ~~(3) Juvenile division:~~

41 (b) At the general election, the question of the retention in office
 42 or rejection of a judge described in subsection (a) shall be submitted to
 43 the electorate of Lake County in the form prescribed by IC 3-11 and
 44 must state "Shall Judge (insert name) of the superior court of Lake
 45 County be retained in office for an additional term?".

46 (c) If a majority of the ballots cast by the electors voting on any
 47 question is "Yes", the judge whose name appeared on the question shall
 48 be approved for a six (6) year term beginning January 1 following the
 49 general election as provided in section 41(b) of this chapter.

50 (d) If a majority of the ballots cast by the electors voting on any

question is "No", the judge whose name appeared on the question shall be rejected. The office of the rejected judge is vacant on January 1 following the rejection. The vacancy shall be filled by appointment by the governor under section 38 of this chapter.

(e) The Lake County election board shall submit the question of the retention in office or rejection of a judge described in subsection (a) to the electorate of Lake County. The submission of the question is subject to the provisions of IC 3 that are not inconsistent with this chapter.

(f) If a judge who is appointed does not desire to serve any further term, the judge shall notify in writing the clerk of the Lake circuit court at least sixty (60) days before any general election, in which case the question of that judge's retention in office or rejection shall not be submitted to the electorate, and the office becomes vacant at the expiration of the term.

SECTION 7. IC 33-33-45-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. (a) A judge of the superior court may not during a term of office as judge of the superior court do any of the following:

(1) Engage in the practice of law.

(2) Run for elective office. ~~unless the elective office is that of judge of the county division of the Lake superior court.~~

(3) Take part in any political campaign. ~~unless the judge is running for election as judge of the county division and the political campaign is conducted for that office.~~

(b) Failure to comply with this section is sufficient cause for the commission on judicial qualifications to recommend to the supreme court that the judge be censured or removed.

(c) A political party may not directly or indirectly campaign for or against a judge subject to retention or rejection under this chapter.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 33-33-45-39; IC 33-33-45-43.

SECTION 9. [EFFECTIVE JULY 1, 2009] **(a) Notwithstanding the amendment and repeal by this act of provisions in IC 33-33-45, and except as provided in subsection (c), the term of a judge of the Lake superior court county division:**

(1) who is in office on June 30, 2009; and

(2) who was elected under IC 33-33-45-43, as repealed by this act;

does not terminate until the date that the term would have terminated under the law in effect on June 30, 2009.

(b) Except as provided in subsection (c), the question of retention or rejection of a judge of the Lake superior court county division described in IC 33-33-45-25, as amended by this act, shall be placed on the ballot at the general election immediately preceding the date on which the term of the judge occupying the position on June 30, 2009, would have terminated under the law in effect on June 30, 2009.

(c) A vacancy that occurs on the Lake superior court county division after June 30, 2009, shall be filled as provided in

- 1 **IC 33-33-45-34, as amended by this act. A person appointed to fill**
2 **a vacancy under this subsection serves an initial term as provided**
3 **in IC 33-33-45-41, as amended by this act.**
4 **(d) This SECTION expires January 2, 2015.**
 (Reference is to SB 132 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

LONG, Chairperson